

Before The
Postal Regulatory Commission

Testimony of Murray Comarow
July 10, 2008
On Universal Service, the Postal Monopoly,
and Mailbox Access

Chairman Blair and members of the Commission, thank you for inviting me to contribute what I can to the report you will submit to Congress. It is no small thing, especially during this economic downturn, to recommend guidelines that may affect an industry that employs eight million, four hundred thousand people, and generates over a trillion dollars a year in revenue. My remarks this morning supplement my June 6, 2008 comments.

The task with which you are charged is markedly different from those undertaken by most regulatory agencies, none of which regulate another government agency. It was imposed upon you by a Congress largely uninformed about postal matters unless their local or political interests are involved. Even some congressional staffers openly express frustration about how little Congress knows about this huge part of our society and how little it appreciates the consequences of its possible failure. It follows that your recommendations, whatever their merits, may not receive the attention that they deserve, in which case the Commission's report may virtually dictate the legislative outcome.

A few Congressmen, however, know a lot about the Postal Service. Representative John M. McHugh is probably more responsible for the 2003 reform act than any other member of Congress. Having given the Commission the universal service job, Mr. McHugh wants to shape its report. His June 30, 2008 letter to the Commission states that he is "one of the primary authors of the 2006 reform law," and offers his "personal views" to the Commission, to wit: "Proposals to limit service in low-volume density areas—whether they are in rural areas or inner cities—would have a very difficult time being accepted by Congress. Such proposals seem discriminatory" Further: "I can attest that the mailbox statute is not only viewed as essential to enforcing the monopoly, it is crucial to Americans' sense of privacy and the integrity of the mail."

Actually, I have no substantive quarrel with Mr. McHugh. My point is that when Congress designates a responsible body to study a complex political/economic/social issue, it should not interfere with its ongoing work. Does

anyone believe that the Commission will give the Congressman's views no more weight than the views of other responders? If so, perhaps they believe that when a judge orders a jury to disregard testimony, it is thereupon expunged from their minds.

An earlier example of inappropriate intervention was the April 6, 2007 letter from Senators Susan M. Collins and Thomas R. Carper to this Commission, which interpreted key provisions of the 2003 reform act involving the rate cap and the phrase "extraordinary or exceptional circumstances." Such *ex post facto* explanations would be summarily rejected by a court of law, and should not be taken as authoritative, I would hope, by a quasi-judicial body such as this Commission.

I cover this in some detail because it leads to a more serious concern, the false idol of being "realistic." The Commission should not be "realistic" by suppressing recommendations that will likely fail. It should take its best shot and let Congress decide what is or is not politically acceptable. That approach, which I will presently address, may well be a disciplined aversion to changes that may damage the system.

I turn now to two curious omissions in mailers' comments. First, they fail to note the statutory mandate that the Postal Service act like a business, and Congressional actions that constantly undermine that mandate. The cumulative authorities of this Commission, the Treasury Department, the Office of Personnel Management, the Federal Trade Commission, the State Department, and the Department of Transportation should make business executives cringe, especially those who have experienced the stifling effects of overregulation. In business, prices are not capped by inflation; modernizing and compressing infrastructure is not stymied by politicians; outsourcing is a management responsibility; benefits are not set by law, and so forth.

Postal competitors have long argued for a level playing field, so the Federal Trade Commission's finding that the Postal Service was at a competitive disadvantage must have come as a shock. (Or did it?) A serious study of universal service and the letter and mailbox monopolies should take into account the skewed principles that seem to drive legislative behavior.

The other lacuna in most mailer and union comments is the status of the Postal Service as a self-supporting government corporation. I know of no

business, in or out of government, that diverts revenue from its customers to subsidize charities, newspapers, religious institutions, and universities. There may be valid reasons for our society to be good to those who do good; if so, Congress should give them taxpayers' money.

It is essential, I believe, to consider universal service within the context of the nation's social and economic condition. Last month, the Wall Street Journal's Gerald Seib wrote that "America and its political leaders, after two decades of failing to come together to solve big problems, seem to have lost faith in their ability to do so." About the same time, Robert Hormats of Goldman Sachs wrote that "[T]he political system seems incapable of producing a critical mass to support any kind of serious reform."

In the last eight years, Thomas Friedman noted in the New York Times, our national debt has increased from eight trillion dollars to fourteen trillion. He could have also noted that the Democratic Congress is trying hard to match the shameful earmarks level of the former Republican Congress, but has not yet succeeded. "Our political system is not working," Friedman said.

Seib, Hormats, and Friedman did not have the Postal Service in mind, but why should we expect better performance at either end of the Hill? Perhaps it is better that an unknowing Congress, given its track record on postal reform, taxation, immigration, energy, health care, and trade and budget deficits, has called upon this Commission for guidance on national postal policy.

If the Commission recommends (and Congress adopts) changes in universal service, letter and mailbox monopolies in such a way as to reduce revenue, it will be another body blow to a system already regarded as ungovernable by its own Board and by most members of the President's 2003 Commission. Saddled with unprecedented constraints, fierce competition from UPS, FedEx, and electronic communication, and lacking the authority commonly vested in businesses, the Postal Service is fighting for its life.

The tenor of competitors and special interests may be inferred from the FedEx and other comments to the Commission. Suggesting that universal service should cover only single-piece or "social" mail, FedEx quoted the 2004 statements of its head, Frederick Smith, such as: "The postal monopoly law lingers like an ancient curse on Middle Earth . . . an evil wizard has seemingly taken control of the postal monopoly." UPS wants universal service only for market-dominant

products. The National Newspaper Association wants licensed access to mailboxes. The National Association of Letter Carriers decreed that any decision on frequency of delivery is a political one that Congress should make. And so forth. These positions are rational from the standpoint of each organization. The damage they would do to the system, however, seems clear.

If the Postal Service should die, there will be autopsies to determine the cause of its demise. They will be performed by Congressional committees, by the press, by schools of business and of government, and by think tanks on the left and the right.

As is common in complex pathologies, they will find a concatenation of factors, and will note that the suspects, persons of interest, and miscreants set new records for finger-pointing. Perhaps the National Academy of Public Administration will gather all the autopsy reports, do a mega-analysis, and summarize their findings along these lines:

1. Congress created the Postal Service as a patronage-free, self-supporting government corporation in 1971. It was to run on revenues from customers, not taxpayers. It was to operate like a business.

2. The same law and Congress' behavior made that impossible. The Postal Service's nine presidentially-appointed governors evidently could not be trusted to set stamp prices, so that function (and others) was placed in the hands of five presidentially-appointed commissioners of a new agency, the Postal Rate Commission.

3. Unlike all other federal agencies, the law also required that the Postal Service negotiate wages with its employees. When there was an impasse, an arbitrator set wages. This process is largely responsible for the fact that for four decades, labor costs have accounted for about 80 percent of costs, an unsustainable level.

4. The weight of regulation and supervision from the PRC and five other federal agencies, aside from the usual oversight by Congress and the GAO, throttled the best efforts of postal managers.

While 81 percent of Americans (the highest percentage since 1991) believe that the United States "is on the wrong track," the public is satisfied with and trusts

the mail more than any other part of government. Taking inflation into account, the forty-two cent first-class stamp costs about the same as the eight cent stamp cost in 1971. If the barriers I cite are so high, how could this have happened? First, the economy, with some bumps and grinds, was on an upward trend. Postal revenue rose with the gross domestic product. Secondly, billions were invested in machinery to process mail with fewer workers, and other efforts, by management and mailers, successfully complemented those investments.

As the economy has faltered, these efforts are now insufficient. In the first half of its fiscal year, the Postal Service lost \$707 million. Unlike businesses, it may adjust its prices for ninety percent of its products only within the rate cap. The foundational principle of the Postal Service, that managers must have the tools with which to manage, was kidnapped by Congress, whose organizing principle might be termed “strangulation by regulation.”

It is not too late to create a postal environment that would encourage its inhabitants to create, to take risks with the knowledge that some may fail, to pursue the mission because it is important and personally rewarding. Unnecessarily redefining long-standing policies would hardly help create such an environment.

I am in accord with a number of commentators who urged that universal service and the letter and mailbox monopolies not be weakened: Time Warner, Pitney Bowes, DFS Services, American Business Media, and others. If the Commission must define universal service, it should do so broadly, as a six-day-a-week service across the board, with authority vested in the Postal Service to adjust it as necessary.

Both universal service and the letter monopoly have been modified from time to time, the mailbox monopoly hasn't changed, and I can't recall serious protests, not even from Congress. Like the common law, these policies have been adjusted on a case-by-case basis. They may be regarded as the cumulative wisdom of postal managers and the postal community. The Commission should examine proposed changes in the light of David Hume's 1748 dictum: “A wise man . . . proportions his belief to the evidence.” Unless there is compelling evidence for change, the existing arrangements should continue. I am not aware of such compelling evidence. Thank you again, Mr. Chairman, for this opportunity.

Biography

Murray B. Comarow was elected as a Fellow of the National Academy of Public Administration in 1974 and served on the organization's board of directors. An attorney, he was of counsel to two law firms and is a consultant to a major mailer. He was executive director of President Johnson's Commission on Postal Organization in 1967-68, and executive director of President Nixon's Advisory Council on Executive Organization in 1970-71. Additionally, he served as senior assistant postmaster general, distinguished adjunct professor in residence at American University, Acting Dean of its College of Public and International Affairs, partner at Booz, Allen, and Hamilton, executive director of the Federal Power Commission, and acting deputy general counsel in the Office of the Secretary of the Air Force.

This testimony may be considered against the backgrounds of my June 6, 2008 comments to the Commission and of some previous essays:

- The Dysfunctional Behavior of Mailers, August 2007
- What Does Postal Reform Do? June 2007
- The Strange Case of Postal Reform, February 2007
- The U.S. Postal Service is a Government Corporation, So What? November 2006
- The Postal Conundrum, September 2006

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